

## REMARKS

By this amendment, claims 1, 7, 10, 11, 15 and 16 have been amended. Claims 6 and 9 have been canceled. Claims 17-20 have been added.

Claims 1-5, 7, 8 and 10-20 are currently pending in the application. Reconsideration and allowance of all of the claims is respectfully requested in view of the following remarks.

### In regard to Objections to Claim 10

The Examiner has objected to claim 10 because in line 2, "cargo" should be changed to "cargo rack".

Claim 10 has been amended to remove the expression to which the Examiner made reference. The "cargo rack" element has been added to claim 1, from which claim 10 depends. As such, the Examiner's objection is believed to have been addressed and overcome and should be withdrawn.

### In regard to Rejection of Claims 1-9 and 12-16 Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-9 and 12-16 under 35 U.S.C. § 103(a) as being unpatentable over Tweet, U.S. Patent Application No. 2004/0031640 in view of Hanagan, U.S. Patent No. 4,953,911. The Applicant believes that this rejection has been addressed and overcome by the present amendment.

The Applicant has amended claim 1 to incorporate therein the features of claims 6 and 9.

In consequence of the amendment to claim 1, the Applicant has canceled claims 6 and 9, and as such the Examiner's rejection is moot with respect thereto.

The Examiner's attention is directed to the following feature of claim 1 as amended:

the backrest being substantially level with the cargo rack when  
the backrest is in the second configuration.

The Applicant submits that at least the above feature of claim 1 as amended is not taught by Tweet.

Referring to page 3 of the rejection, the Examiner states that

Tweet [...] does not disclose that the passenger seat is transformable between a first configuration to accept a passenger and a second configuration to accept cargo.

By extension, Tweet does not disclose any properties of a second configuration of the passenger seat, and as such does not teach a backrest being substantially level with a cargo rack when the backrest is in a second configuration.

This deficiency in Tweet is not remedied by Hanagan, without admitting that Hanagan can be combined with Tweet and reserving the right to argue thereagainst in the future.

Referring to Figures 1 and 2 of Hanagan, it is apparent that Hanagan does not disclose a cargo rack rearward of the passenger seat, or any surface rearward of the passenger seat that would be suitable for receiving cargo. By extension, Hanagan does not disclose any position of a cargo rack relative to a backrest of a passenger seat when the backrest is in a second configuration. Therefore, Hanagan does not teach a backrest being substantially level with a cargo rack when the backrest is in a second configuration.

Therefore, at least one feature of claim 1 as amended is not taught by Tweet or Hanagan, alone or in combination, which combination is not admitted.. As such, the Examiner is requested to withdraw his rejection of claim 1 and claims 2-5, 7, 8 and 12-16 depending therefrom.

In regard to Rejection of Claim 10 under 35 U.S.C. § 103(a)

The Examiner has rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Tweet in view of Hanagan and further in view of McNichol, U.S. Patent No. 3,873,127. The Applicant believes that this rejection has been addressed and overcome by the present amendment.

The Examiner's attention is directed to the following feature of claim 1 as amended:

the backrest being substantially level with the cargo rack when the backrest is in the second configuration.

As discussed above with respect to claims 1-9 and 12-16, the above feature of claim 1 is not taught by Tweet or Hanagan, alone or in combination, which combination is not admitted.

The Applicant submits that this deficiency in Tweet and Hanagan is not remedied by McNichol, without admitting that McNichol can be combined with Tweet and reserving the right to argue thereagainst in the future.

Referring to Figure 2 of McNichol, it is apparent that McNichol does not teach any structure rearward of the multipurpose rack 10 when it acts as a passenger seat, and therefore McNichol does not teach a cargo rack rearward of a passenger seat or, by extension, any position of a cargo rack relative to a backrest of a passenger seat when the backrest is in a second configuration.

Referring to Figure 1 of McNichol, it is further apparent that when the second section 44 is configured to accept cargo, the second section 44 is not substantially level with any structure rearward of the passenger seat of McNichol. Therefore, McNichol does not teach a backrest being substantially level with a cargo rack when the backrest is in a second configuration.

Therefore, at least one feature of claim 1 as amended is not taught by Tweet, Hanagan or McNichol, alone or in combination, which combination is not admitted.. As such, the Examiner is requested to withdraw his rejection of claim 10 depending therefrom.

In regard to Rejection of Claims 1-9 and 14 Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-9 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Tweet in view of Seibold, U.S. Patent No. 6,601,900. The Applicant believes that this rejection has been addressed and overcome by the present amendment.

The Applicant has canceled claims 6 and 9, and as such the Examiner's rejection is moot with respect thereto.

The Examiner's attention is directed to the following feature of claim 1 as amended:

the backrest being substantially level with the cargo rack when  
the backrest is in the second configuration.

As discussed above with respect to claims 1-9 and 12-16, the above feature of claim 1 is not taught by Tweet.

This deficiency in Tweet is not remedied by Seibold, without admitting that Seibold can be combined with Tweet and reserving the right to argue thereagainst in the future.

Referring to paragraph [0025] of Tweet,

passenger seating position 114 is positioned rearward of driver position 112. Seating position 114 may be either on the same horizontal plane or in a raised position relative to driver position 112. A raised position or plane may provide the passenger with a better view for anticipation of terrain.

Referring also to Figure 1, it is apparent that Tweet teaches a passenger seating position 114 that is either at the same height or higher than the driver position 112 of Tweet.

Referring now to lines 39-54 of column 2 of Seibold,

The folding seat 10 is moved to the stowed position by rotating the seat back 14 to a lowered position as described above. In addition, the front end of the seat cushion is lowered to enable the seat back 14 to reach a more horizontal orientation. The lower end 26 of the front link 22 has a pivot 50 which is slidable within a slot 52 in the mounting bracket 28. A locking cam (not shown) similar to the locking cam 46, is provided at the slot 52 to hold the pivot 50 at the upper rear end 54 of the slot 52. The pivot 50 is released to slide downward and foreword through the slot 52, allowing the seat cushion 12 to rotate about the pivot 34 at the rear link 24. This lowers the front of the seat cushion 12. Folding of the seat to the stowed position is accomplished without rotation of the rear link 24 about the pivot 30.

Referring also to Figure 2 of Seibold, it is apparent that the seat 10 of Seibold is moved to the stowed position of Figure 2 by pivoting the seat cushion 12 about the pivot 34, lowering the front of the seat cushion 12 but not lowering the rear of the seat cushion 12. Seibold further teaches that the stowed position is achieved without rotating the rear link 24 about the pivot 30. Therefore, the rear of the seat cushion 12 of Seibold is not lower in the stowed position than in the passenger use position of Figure 1. The rear of the seat cushion 12

would be higher in the stowed position, as rotating the seat cushion 12 about the pivot 34 would raise the height of the portion of seat cushion 12 located rearward of the pivot 34.

Referring to lines 23-30 of column 3 of Seibold,

The folding seat 10' of the second embodiment is similar to and shares many components with the folding seat 10 of the first embodiment. For this reason, the folding seat 10' is shown in FIGS. 4-6 with many components designated with the exact reference numbers as the components of FIGS. 1-3. These components, although not exactly the same, perform the same function in both embodiments.

It is apparent that the seat 10' of Seibold shown in Figures 4 and 5 operates in the same manner as the seat 10 shown in Figures 1 and 2, at least with respect to the features described above.

It is apparent from Figure 2 that the seat back 14 of Seibold is disposed higher than the seat cushion 12 when the seat 10 of Seibold is in the stowed position. If this teaching of Seibold were combined with Tweet, which combination is not admitted, it would result in a passenger seat back disposed higher than the passenger seating position, which in turn is disposed higher than the driver seating position. Referring to Figure 1 of Tweet, it is apparent that the cargo rack of Tweet is disposed lower than both the driver position 112 and the passenger seating position 114 of Tweet. Therefore, even if Seibold could be combined with Tweet, the resulting vehicle would not have a backrest substantially level with a cargo rack when the backrest is in a second configuration as claimed.

Therefore, at least one feature of claim 1 as amended is not taught by Tweet or Seibold, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection of claim 1 and claims 2-5, 7, 8 and 14 depending therefrom.

In regard to Rejection of Claim 11 Under 35 U.S.C. § 103(a)

The Examiner has rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Tweet in view of Seibold. The Applicant believes that this rejection has been addressed and overcome by the present amendment.

The Examiner's attention is directed to the following feature of claim 11 as amended:

at least a rear part of the seat portion being lower in the second position than in the first position

The Applicant submits that at least the above feature of claim 11 is not taught by Tweet.

Referring to page 3 of the rejection, the Examiner states that

Tweet [...] does not disclose that the passenger seat is transformable between a first configuration to accept a passenger and a second configuration to accept cargo.

By extension, Tweet does not disclose any properties of a second position of a seat portion, and as such does not teach at least a rear part of a seat portion being lower in a second position than in a first position.

This deficiency in Tweet is not remedied by Seibold, without admitting that Seibold can be combined with Tweet and reserving the right to argue thereagainst in the future.

As discussed above with respect to claims 1-9 and 14, the rear of the seat cushion 12 would be higher in the stowed position than in the passenger use position, as rotating the seat cushion 12 about the pivot 34 would raise the height of the portion of seat cushion 12 located rearward of the pivot 34. Therefore, Seibold does not teach at least a rear part of a seat portion being lower in a second position than in a first position.

Therefore, at least one feature of claim 11 as amended is not taught by Tweet or Seibold, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection thereof.

#### Miscellaneous Amendments

By the present amendment, claims 7, 15 and 16 has been amended to correct their dependencies as a result of the cancellation of claim 6.

By the present amendment, claim 11 has been rewritten in independent form including all of the features in the previous version of claim 1 from which it depended, but not including the features of the intervening claims. This is believed to be a broadening amendment.

By the present amendment, claim 17 has been added. Claim 17 is believed to be allowable as it recites features not taught by the prior art, including at least "the pivot axis being disposed lower than the cargo rack". Support for claim 17 is found in at least Figures 3 and 4 of the specification as originally filed.

By the present amendment, claims 18-20 have been added. Claims 18-20 are believed to be allowable as they recite features not taught by the prior art, including at least "the passenger seat being removable from the vehicle". Support for claims 18-20 is found in at least paragraph [0042] of the specification as originally filed.

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, the Office was authorized to charge the fees believed to be necessary to a credit card. In case of any under- or over-payment or should any additional fee be otherwise necessary, the Office is hereby authorized to credit or debit (as the case may be) Deposit Account number 502977.

Respectfully submitted,

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